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SUBJECT: DARFUR - UNDP RULE OF LAW OVERVIEW

REFS: A) KHARTOUM 2367 B) KHARTOUM 2165

C) KHARTOUM 1912 D) KHARTOUM 0308 E) KHARTOUM 0272

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Summary

11. (U) The USAID-supported UN Development Program's (UNDP) Darfur Rule of Law Program, launched in September 2004, targets the region's absence of rule of law practices and institutions. The program has made a significant contribution to raising awareness of human rights and rule of law procedures with authorities, non-state actors, civilians, conflict-affected populations, the African Union Mission in Sudan (AMIS), and the humanitarian community, including the training of 25,000 people in Darfur on basic human rights and the establishment of seven legal aid centers throughout the region. UNDP Rule of Law Program efforts support the empowerment of local stakeholders to prevent and bring an end to violations of international standards, the restoration of confidence in informal and formal rule of law institutions, and the gradual establishment of a culture of justice. Since September 2005, the UNDP Legal Aid Network, in collaboration with the UN Mission in Sudan (UNMIS) Human Rights and USAID-supported lawyers, has taken on over 400 cases on behalf of victims of violence and injustice in Darfur, including rape. End Summary.

Rule of Law and Legal Aid Program Components

12. (U) At the end of 2006, UNDP and its partners had trained over 25,000 people in Darfur on basic human rights, including members of the Sudanese government, Sudanese Armed Forces (SAF), Popular Defense Forces (PDF), non-state armed groups, local militias, communities in proximity to armed conflict, and conflict-affected civilians. To build capacity, UNDP also provided continuous mentoring and monitoring of local groups. UNDP established legal aid centers, formerly called justice and confidence centers (JCCs), which train paralegals in collaboration with the International Rescue Committee (IRC) and local members of the Darfur Legal Aid Network. There are currently seven legal aid centers in Nyala and Kass, South Darfur, Zalingei and El Geneina, West Darfur, and El Fasher and Kutum, North Darfur, staffed by 25 paralegals each. The paralegals liaise with local and international actors on protection-related concerns, provide representation and mediation

services, as well as basic legal information to the community.

13. (U) In 2006, USAID provided support for five of these centers through small, in-kind grants. USAID also supported the Darfur Legal Aid Network and key actors in the network, including the Goodwill Organization and the Amel Center. In addition, USAID funded two Human Rights and Legal Aid Lawyers Colloquiums held in Darfur in 2006. (Refs D and E) Legal aid centers are stronger in some locations than others, and require continual monitoring and training by UNDP. These centers have provoked harassment from local authorities, requiring UNDP and UNMIS Human Rights to maintain close relationships with legal aid center paralegals to monitor incidents of arrest and harassment of local lawyers working on human rights cases. Informed and aware of these incidents, the UN can advocate on behalf of legal staff with authorities, visit them during detention, and advocate for their release. In some locations, partnering with the UN can also deter harassment.

14. (U) UNDP also serves as the coordinating agency for the ongoing joint UNDP, Office of the UN High Commissioner for Human Rights (OHCHR), UN Population Fund (UNFPA), and the UN Children's Fund (UNICEF) program to strengthen AMIS capacity to protect civilians through training on civilian protection, human rights, and child rights in Darfur. UNDP and AMIS personnel report the need for improved program management. Due to AMIS staff turnover, many personnel have not received the training, while others received it within days of their final departure. (Note: In 2006, the Japanese government fully funded this program and has reportedly indicated their willingness to continue supporting the program in 2007. End Note.)

15. (U) The start of the program was initially delayed and it is not as comprehensive as originally envisioned. Humanitarian actors report that AMIS civilian police (AMIS/CIVPOL) do not effectively use established field protection guidelines for assisting victims of sexual violence, called referral pathways, to preserve dignity, human rights, and confidentiality rights. In addition, AMIS personnel require training in conducting community meetings with

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civilians, and organizing work plans to effectively implement AMIS/CIVPOL women's desks, as well as detailed explanations of the Sudan justice system and law enforcement personnel structure. Humanitarian actors also identified the lack of institutionalization of best practices throughout all eight AMIS Darfur sectors as a significant gap. Some sectors currently have effective working relationships with internally displaced person (IDP) communities and others have no relationship, or worse, have been rejected by the IDP community. (Comment: The program should coincide with the arrival and field post deployment of AMIS personnel to improve its impact. End Comment.)

16. (U) UNDP also plans to start Early Recovery Programming (ERP) in Darfur. The capacity building needs in Darfur are immense and strengthening capacity is critical to a sustainable peace. Programs could include temporary employment schemes, public works sector support, income generation, in addition to more typical UNDP interventions. Even though the UN has dedicated USD 1 million in 'seed money' for the ERP initiative in Darfur, UNDP/Khartoum is having difficulty implementing the program due to limited staffing resources. In Darfur, UNDP rule of law programs welcome the new initiative because of its projected impact on alleviating some of the pressure and focus of local authorities on UNDP's rule of law program, in particular on sexual and gender-based violence programs which are primarily funded by USAID. (Comment: USAID should encourage the ERP but ensure that the program does not become a management burden on UNDP rule of law staff. End Comment.)

Obstacles and Challenges to Improving the Rule of Law

17. (U) UNDP efforts to strengthen the rule of law face a wide range of obstacles in Darfur. First, the population mistrusts the institutions tasked to protect them, including local law enforcement officials and court systems. Harassment and violence against

civilians and humanitarian actors are prevalent. In addition, the justice system suffers from the limited capacity of legal professionals, overly complex bureaucratic procedures, high costs, and pervasive corruption. Civilians in need of access to the justice system confront widespread illiteracy, geographic distance from courts and lawyers, and ignorance of the justice system. Supporting literacy campaigns, mobile legal aid clinics, and comprehensive judicial reform is needed to overcome these obstacles, as well as in-depth training on human rights, and victim-centered philosophies of rule of law and law enforcement. USAID has supported small pilot literacy programs for women in Mukjar, West Darfur, intended to contribute to the prevention of violence against women through their empowerment. Other international non-governmental organizations (INGOs), such as CHF International, support similar programs primarily targeting women. However, current efforts are insufficient to address the extensive literacy needs in Darfur.

Success Despite Obstacles

18. (U) Despite ongoing conflict and Sudanese government obstruction, the UNDP Legal Aid Network, in collaboration with UNMIS Human Rights, and USAID-supported lawyers (Refs D and E) have taken on over 400 cases since September 2005 on behalf of victims of violence and injustice in Darfur. UNDP reported nine rape conviction cases in Darfur during 2006, a significant achievement in light of the prevailing climate and current obstacles to justice. (Refs A, B, and C)

19. (U) Below are examples of cases represented by UNDP legal aid networks with USAID support in 2006.

a) RAPE - April 2006, Sirba IDP Camp, West Darfur: 29-year old woman was raped by soldier. Permission was granted to try the soldier in the El Fasher general court. On July 27, 2006, the court found the soldier guilty on all charges of rape and abuse of power. Sentence: 100 lashes and two years imprisonment.

b) CHILD RAPE - June 2006, Mornei IDP camp, West Darfur: 8-year old girl was raped by armed man. The El Geneina Court found the man guilty on all charges. Sentence: 100 lashes and two years imprisonment.

c) MURDER CHARGE - March 2006, Kreinek IDP camp, West Darfur: 32-year old woman was accused of murdering a member of the SAF. The

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man accidentally shot himself in the accused woman's home. The El Geneina Court found her not guilty.

d) ADULTRY AND ATTEMPTED MURDER CHARGE - Spring 2006, Abu Shouk IDP camp, North Darfur: Abandoned baby was found in latrine. Baby survived and mother was charged by local police with unlawful sexual intercourse and attempted murder. The woman informed the police that she was raped by an unknown soldier and hid this due to shame and fear. The court in El Fasher eventually dropped the charges.

e) CHILD RAPE - August 2006, Al-Malaga Market, Nyala town, South Darfur: 15-year old boy was robbed and raped by two police officers. One of the accused was convicted of rape and the other of robbery. Sentence: 80 lashes and eight years imprisonment for rape and six additional months for robbery.

f) CHILD RAPE - November 2006, location withheld: man was charged with raping a 14-year boy. The accused was found guilty and sentenced to 100 lashes and ten years imprisonment.

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